

Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C. 20554

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In the Matter of )  
 )  
Request of Limited Modification of )  
LATA Boundaries to Provide ELCS )  
Between the Jarrell )  
exchange and the Belton and )  
Temple exchanges. )

96-159

DOCKET FILE COPY ORIGINAL

**PETITION**

**I. INTRODUCTION**

Southwestern Bell Telephone Company (SWBT), pursuant to Section 3(25) of the Communications Act of 1934, as amended,<sup>1</sup> and in accordance with the guidelines established in the Commission's Memorandum Opinion and Order (MO&O) released July 15, 1997 in CC Docket No. 96-159,<sup>2</sup> hereby makes application for a limited modification of LATA boundaries to provide ELCS between the Jarrell exchange and the Belton and Temple exchanges.

**II. SUPPORTING INFORMATION**

As prescribed in paragraph 23 of the aforementioned Commission MO&O, SWBT provides the following information in support of its application:

1. Type of service: Flat-rate, non-optional Expanded Local Calling (ELC);

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<sup>1</sup> The Communications Act of 1934, as amended, 47 U.S.C. *et al.*

<sup>2</sup> Memorandum Opinion and Order, Petitions for Limited Modification of LATA Boundaries to Provide Expanded Local Calling Service at Various Locations, CC Docket No. 96-159, released July 15, 1997. By way of this MO&O the Commission adopted a format for and criteria under which such petitions would be granted. The format and criteria are detailed in paragraphs 23 and 24.

2. Direction of service: Two-way;
3. Exchanges involved: Jarrell in the Austin, TX LATA, Belton in the Waco, TX LATA and Temple in the Waco, TX LATA;
4. Name of carriers: Jarrell of Contel/GTE Southwest, Inc., Belton of Southwestern Bell Telephone and Temple of Southwestern Bell Telephone;
5. State commission approval(s): See Attachment A;
6. Number of access lines or customers: Jarrell has 785 access lines, Belton has 10,722 access lines and Temple has 34,589 access lines;
7. Usage data: Usage data is not available to Southwestern Bell Telephone. SWBT does not currently carry traffic across LATA boundaries;
8. Poll results: Percentage of Jarrell customers returning ballots who voted in favor of ELC to Belton: Greater than 70 percent. Percentage of Jarrell customers returning ballots who voted in favor of ELC to Temple: Greater than 70 percent. Where SWBT is the petitioning exchange, there is no proposed rate increase. Where SWBT is not the petitioning exchange, SWBT does not have information as to any proposed rate increase.
9. Community of interest statement: The Public Utility Commission of Texas includes a Community of Interest Finding in their Order(s). See Attachment A.
10. Map: See Attachment B; and,
11. Other pertinent information: None

### **III. *PRIMA FACIE* SHOWING**

SWBT believes that it has made a *prima facie* case supporting grant of the proposed modification because the instant ELCS petition (1) has been approved by the state commission; (2) proposes only traditional local service (i.e., flat-rate, non-optional ELCS); (3) indicates that the state commission found a sufficient community of interest to warrant such service; (4) documents this community of interest through such evidence as poll results and descriptions of the communities involved; and, (5) involves a limited number of customers or

access lines. These requirements for a *prima facie* case are detailed in the aforementioned Commission MO&O paragraph 24.

#### IV. CONCLUSION

Wherefore, SWBT request that the Commission approve its application for a limited modification of LATA boundaries to provide ELCS between the Jarrell exchange and the Belton and Temple exchanges.

Respectfully submitted,

SOUTHWESTERN BELL TELEPHONE COMPANY

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AUGUST 29, 1997

## DOCKET NO. 13835

PETITION FOR EXPANDED LOCAL	§	PUBLIC UTILITY COMMISSION
CALLING SERVICE FROM THE	§	
MURCHISON EXCHANGE TO THE	§	OF TEXAS
EXCHANGES OF LINDALE-SWAN AND	§	
TYLER	§	

## ORDER NO. 8

## DOCKET NO. 14151

PETITION FOR EXPANDED LOCAL	§	PUBLIC UTILITY COMMISSION
CALLING SERVICE FROM THE IRENE	§	
EXCHANGE TO THE EXCHANGE OF	§	OF TEXAS
CORSICANA	§	

## ORDER NO. 7

## DOCKET NO. 14160

PETITION FOR EXPANDED LOCAL	§	PUBLIC UTILITY COMMISSION
CALLING SERVICE FROM THE BEN	§	
WHEELER EXCHANGE TO THE	§	OF TEXAS
EXCHANGE OF TYLER	§	

## ORDER NO. 8

## DOCKET NO. 14250

PETITION FOR EXPANDED LOCAL	§	PUBLIC UTILITY COMMISSION
CALING SERVICE FROM THE MONTALBA	§	
EXCHANGE TO THE EXCHANGE OF	§	OF TEXAS
TYLER	§	

## ORDER NO. 4

## DOCKET NO. 14256

PETITION FOR EXPANDED LOCAL	§	PUBLIC UTILITY COMMISSION
CALLING SERVICE FROM THE KOPPERL	§	
EXCHANGE TO THE EXCHANGE OF	§	STATE OF TEXAS
MERIDIAN	§	

## ORDER NO. 5

DOCKET NO. 13835  
DOCKET NO. 14151  
DOCKET NO. 14160  
DOCKET NO. 14250  
DOCKET NO. 14256  
DOCKET NO. 14465  
DOCKET NO. 14310

ORDER NO. 8  
ORDER NO. 7  
ORDER NO. 8  
ORDER NO. 4  
ORDER NO. 5  
ORDER NO. 5  
ORDER NO. 3

DOCKET NO. 14465

PETITION FOR EXPANDED LOCAL	§	PUBLIC UTILITY COMMISSION
CALLING SERVICE FROM THE JARRELL	§	
EXCHANGE TO THE EXCHANGES OF	§	OF TEXAS
BELTON AND TEMPLE	§	

ORDER NO. 5

DOCKET NO. 14310

PETITION FOR EXPANDED LOCAL	§	PUBLIC UTILITY COMMISSION
CALLING SERVICE FROM THE CHICO	§	
EXCHANGE TO THE EXCHANGE OF	§	OF TEXAS
BOWIE	§	

ORDER NO. 3  
DIRECTING LOCAL EXCHANGE COMPANY  
TO FILE FOR LIMITED MODIFICATION

On July 28, 1997, the Commission Staff recommended that, Southwestern Bell Telephone Company (SWBT), in light of the recent Federal Communications Commission (FCC) order addressing the procedures for SWBT to request limited modifications of local access and transport area (LATA) boundaries for the provision of expanded local calling service (ELCS), file a request with the FCC, within thirty days of the effective date of this order, in accordance with the procedures outlined *In the Matter of Petitions for Limited Modification of LATA Boundaries to Provide Expanded Local Calling Service (ELCS) at Various Locations*, CC Docket No. 96-159, FCC 97-244, (rel. July 15, 1997) *Memorandum Opinion and Order*, §§ 23 & 24.

A community of interest has previously been established in these cases and a waiver request was filed by SWBT with the Department of Justice under the *Modified Final Judgment*.

**DOCKET NO. 13835**  
**DOCKET NO. 14151**  
**DOCKET NO. 14160**  
**DOCKET NO. 14250**  
**DOCKET NO. 14256**  
**DOCKET NO. 14465**  
**DOCKET NO. 14310**

**ORDER NO. 8**  
**ORDER NO. 7**  
**ORDER NO. 8**  
**ORDER NO. 4**  
**ORDER NO. 5**  
**ORDER NO. 5**  
**ORDER NO. 3**

**ATTACHMENT A**  
**SHEET 3**

SWBT shall file within 30 days of the effective date of this order, a request for limited modification of the LATA boundaries. Additionally, within 10 days of the receipt of orders or notices from the FCC relating to these petitions, SWBT shall file such orders or notices with the Commission.



**ISSUED BY THE OFFICE OF POLICY DEVELOPMENT**  
**ON BEHALF OF THE PUBLIC UTILITY COMMISSION OF TEXAS**  
**ON THE 31st DAY OF JULY, 1997**

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DOCKET NO. 14465

PETITION FOR EXPANDED LOCAL  
CALLING SERVICE FROM THE JARRELL  
EXCHANGE TO THE BELTON,  
BUCKHOLTZ, COPPERAS COVE, FORT  
HOOD, HEIDENHEIMER, HOLLAND,  
KILLEEN, LITTLE RIVER/ACADEMY,  
ROGERS, AND TEMPLE EXCHANGES

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PUBLIC UTILITY COMMISSION  
OF TEXAS

ORDER NO. 4

DISMISSING DOCKET IN PART

On November 7, 1995, the Administrative Law Judge (ALJ) assigned to this docket issued Order No. 3. The order found that the petitioning exchange had not proven a community of interest exists between it and certain of the petitioning exchanges. Pursuant to P.U.C. SUBST. R. 23.49(c)(3), the Buckholtz, Copperas Cove, Fort Hood, Heidenheimer, Holland, Killeen, Little River/Academy, and Rogers Exchanges are **DISMISSED**. In the future, Docket No. 14465 shall be captioned *Petition for Expanded Local Calling Service from the Jarrell Exchange to the Belton and Temple Exchanges*.

SIGNED AT AUSTIN, TEXAS the 12th day of December 1995.

PUBLIC UTILITY COMMISSION OF TEXAS



DEANN T. WALKER  
ADMINISTRATIVE LAW JUDGE

DOCKET NO. 14465

PETITION FOR EXPANDED LOCAL  
CALLING SERVICE FROM THE  
JARRELL EXCHANGE TO THE  
EXCHANGES OF BELTON,  
BUCKHOLTZ, COPPERAS COVE,  
FORT HOOD, HEIDENDEIMER,  
HOLLAND, KILLEEN, LITTLE RIVER/  
ACADEMY, ROGERS, AND TEMPLE

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PUBLIC UTILITY COMMISSION  
  
OF TEXAS

INTERIM ORDER

The Public Utility Commission of Texas (Commission) finds that this docket is based on an evidentiary record and has been processed in accordance with applicable statutes and Commission rules. This application is not a major rate proceeding and at least 30 days have passed since the completion of all notice requirements. This decision is not adverse to any parties other than the Legal Division of Regulatory Affairs of the Public Utility Commission of Texas and the Commission finds that a hearing is not necessary in this proceeding.

The following findings of fact and conclusions of law are **ADOPTED**:

Findings of Fact

Background

1. The expanded toll-free local calling service (ELCS) petition that is the subject of this Interim Order requests non-optional "to and from calling" between the Jarrell Exchange and the Belton and Temple Exchanges.
2. The processes for petitioning and balloting included notice that the service would have a fee of up to \$3.50 for residential and \$7.00 for business customers per month on a non-optional basis.
3. Judge Harold H. Greene established the local access transport area (LATA) boundaries for Southwestern Bell Telephone Company (SWB) in the Modified Final Judgment, *United States v. AT&T*, 552 F. Supp. 131 (D.D.C. 1982) and *United States v. Western Elec. Co., Inc.*, 569 F.Supp. 990



(D.D.C. 1983), and for GTE Southwest, Inc. and Contel of Texas, Inc. (collectively GTE) in the Decree, *United States v. GTE Corp.*, 1985-1 Trade Cas (CCH) §66,355 (D.D.C. 1985). (The collective orders of Judge Greene will hereinafter be referred to as MFJ.)

4. A LATA is a geographic area in which SWB and GTE can provide telecommunication services within its boundaries. In the MFJ, Judge Greene restricted the two local exchange carriers from providing interLATA transport. In order for the companies to span the LATA boundaries established by the MFJ, they must obtain a waiver from Judge Greene.

5. Judge Greene has relied upon the following issues for SWB or GTE to obtain a waiver of the MFJ: impact on competition; whether the calling plan has the attributes of a long distance toll call; and whether a community of interest exist between the two exchanges.

6. On October 19, 1993, the Commission amended P.U.C. SUBST. R. 23.49 by adding a section pertaining to ELCS in accordance with Senate Bill 632, (Act of May 11, 1993, 73rd Leg. R.S., ch.271, 1993 Tex. Sess. Law Serv. 1276 (Vernon))(to be codified as an amendment to TEX. REV. CIV. STAT. ANN., Art. 1446c, § 93A) and § 93A of the Public Utility Regulatory Act (PURA), Tex. Rev. Civ. Stat. Ann. art. 1446c (Vernon Supp. 1994). The rule became effective on December 7, 1993.

7. The statute and the rule referred to in Finding of Fact No. 6 provide certain requirements for petitioning exchanges to meet in order to receive ELCS. One such requirement is a showing of a community of interest.

8. In recommending approval of various waivers before Judge Greene, the Department of Justice (DOJ) has relied upon an affirmative finding of the Public Utility Commission of Texas that a community of interest exists between two exchanges, often based on a vote of the responding subscribers, and whether the two exchanges share such needs as local governments; employment; shopping; and use of educational and medical services.

DOCKET NO. 14465

INTERIM ORDER

9. An affirmative vote of 70 percent of the subscribers responding to the ballot is necessary for an ELCS petition to proceed at the Commission. The percentage of affirmative votes from those subscribers returning ballots is a compelling showing of a community of interest. This factor can and should be considered with the same weight as other factors, such as the sharing of local government, schools, employment, and commercial centers.

Community of Interest Issues

10. In Docket No. 13324, *Petition for Expanded Local Calling Service from the Jarrell Exchange to the Bartlett, Salado, and Florence Exchanges*, the Commission found that a community of interest exists between the Jarrell Exchange and the Bartlett, Salado, and Florence Exchanges. The Commission directed SWB and GTE-SW to file for a waiver of the Modified Final Judgment to allow the transport of service across a LATA boundary. The Bartlett, Salado and Florence Exchanges are first tier exchanges (share a common boundary) with the Jarrell Exchange.

11. On January 5, 1995, the Jarrell Exchange filed a petition for ELCS between it and the Belton, Buckholtz, Copperas Cove, Fort Hood, Heidenheimer, Holland, Killeen, Little River/Academy, Rogers, and Temple Exchanges, among others.

12. On November 7, 1995, Order No. 3 was issued in this proceeding. The order found that sufficient evidence was not presented to show a community of interest exist between the Jarrell Exchange and the Buckholtz, Copperas Cove, Fort Hood, Heidenheimer, Holland, Killeen, Little River/Academy, and Rogers Exchanges.

13. The Jarrell Exchange is served by GTE-SW, and it is in the Austin LATA. The Belton and Temple Exchanges are served by SWB, and are in the Waco LATA.

14. The parties to the proceeding are the petitioning Jarrell Exchange, GTE-SW, SWB, and General Counsel. A hearing on the merits was not held because there are no contested issues. There is no statutory deadline for this proceeding.

15. The Jarrell Exchange is within 22 miles of each of the exchanges.
16. An affirmative vote of over 70 percent of those subscribers that voted in the balloting favored expanding local calling scope from the Jarrell Exchange to the Belton and Temple Exchanges.

**Belton Exchange**

17. The Jarrell Exchange has no doctors or dentists practicing within the community. Many of the residents of the Jarrell Exchange rely on medical services in Belton. There are no pharmacies in the Jarrell Exchange, so many residents use Belton for pharmaceutical needs as well as medical services.
18. The Belton Exchange provides many employment opportunities to the residents of the Jarrell Exchange. There are many service oriented jobs, such as Sears, restaurants, recreational facilities near Lake Belton, and marine operations.
19. For businesses in the Jarrell Exchange, such as tree farms and rock quarries, the majority of their customers are from the Belton, Killeen, and Temple Exchanges. The Veterinary Hospital in the Belton Exchange provides animal care to the farmers and ranchers within the Jarrell Exchange.

**Temple Exchange**

20. The Temple Exchange is heavily relied upon by the residents of the Jarrell Exchange for medical facilities and providers. The Scott & White Clinic and Hospital, the Kings Daughters Hospital, and the Olin E. Teague Veteran's Hospital are facilities used by the residents of the Jarrell Exchange. The Scott & White Clinic has the only Life-Flight helicopter serving the Jarrell Exchange area.
21. The nearest Internet connection for the Jarrell Exchange is from the VVM Internet Providers Company in the Temple Exchange. The Jarrell High School cannot conduct adequate demonstrations of the internet and computer instruction because of the high cost of long distance. There is no Network

Service Provider in any of the exchanges where Jarrell has toll-free access; the nearest one is in the Temple Exchange.

22. The residents of the Jarrell Exchange rely on commercial services from the Temple Exchange. Several tractor and equipment dealers provide services to local farmers within the Jarrell Exchange. A scrap metal company provides recycling services for such items as iron, wire, and tin. The Temple malls and shopping areas provide clothing, food, and home supplies to the people in the Jarrell Exchange.

23. There is a community of interest between the Jarrell Exchange and the Belton Exchange. The exchanges are within 22 miles of each other. In addition, the petitioners proved a community of interest with the Belton Exchange in the following ways: the affirmative vote of the subscribers returning ballots; commonality as a commercial and employment center; and commonality of medical facilities and providers.

24. There is a community of interest between the Jarrell Exchange and the Temple Exchange. The exchanges are within 22 miles of each other. In addition, the petitioners proved a community of interest with the Temple Exchange in the following ways: the affirmative vote of the subscribers returning ballots; commonality as a commercial and employment center; and, commonality of medical facilities and providers.

**Informal Disposition**

25. More than 30 days have passed since completion of the notice provided in this docket.

26. No protests, motions to intervene, or requests for hearing have been filed. No issues of fact or law are disputed by any party, therefore, no hearing is necessary.

Conclusions of Law

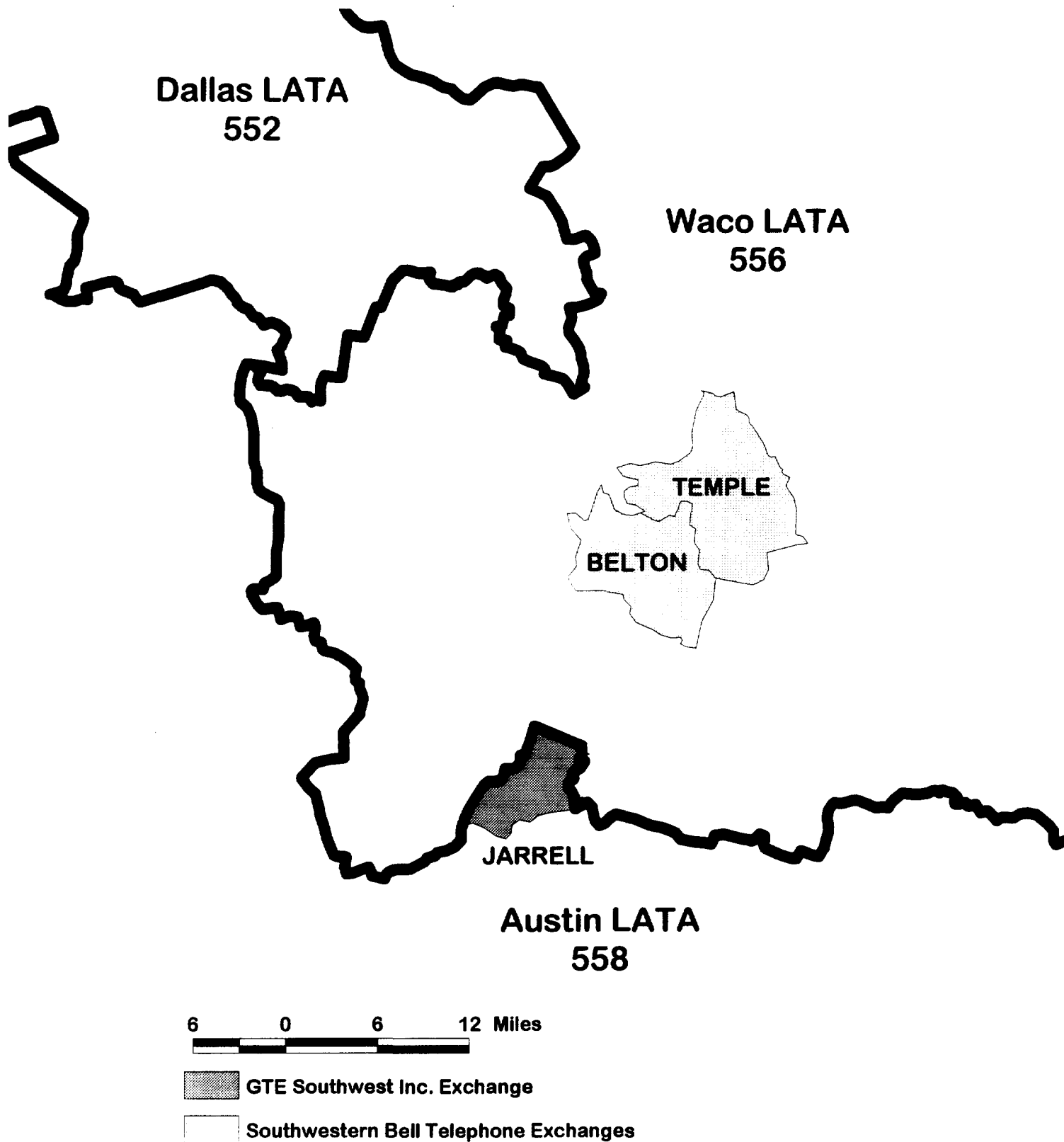
1. The Commission has jurisdiction in this proceeding pursuant to the Public Utility Regulatory Act of 1995, S.B. 319, §§ 1.101, 3.051, 3.151, 3.155, 2.201, 3.251, and 3.304, 74th Leg., R.S. 1995.
2. The standards for community of interest for ELCS in Texas are established in § 3.304(a)(2) of PURA and in P.U.C. SUBST. R. 23.49(c)(3).
3. Pursuant to P.U.C. SUBST. R. 23.49(c)(11), ELCS petitions filed prior to the adoption of P.U.C. SUBST. R. 23.49(c) must satisfy the criteria contained within the rule.
4. To meet the community of interest standard, P.U.C. SUBST. R. 23.49(c)(3)(B) and § 3.304(a)(2) of PURA require a petitioning exchange to have either a contiguous boundary with the petitioned exchange or require the exchanges covered by the petition to be within a distance of 22 miles of each other. As established in Finding of Fact No. 15, the petitioning exchange satisfies the requirement.
5. P.U.C. SUBST. R. 23.49(c)(3)(C) provides that if the exchanges are greater than 22 miles apart, but less than 50 miles, the petitioners must show a community of interest through schools, hospitals, local governments, business centers, or other relationships so that, without ELCS, a hardship on the residents of the petitioning exchange would occur.
6. An ELCS docket that has the two exchanges within 22 miles of each other or which are contiguous to each other constitutes a *per se* showing of community of interest. Judge Greene requires, however, a greater showing of community of interest in order to grant a waiver of the MFJ; thus, the Commission shall address additional findings of a community of interest between the exchanges in this type of proceeding.
7. A community of interest standard similar to P.U.C. SUBST. R. 23.49(b)(2) is not applicable to proceedings involving ELCS.

8. The standards contained within § 3.304(a)(2) of PURA and P.U.C. SUBST. R. 23.49(c)(3)(B) apply to both contested and uncontested ELCS proceedings.
9. P.U.C. SUBST. R. 23.49(c)(5)(D)(ii) and § 3.304 of PURA require an affirmative vote of at least 70 percent of those subscribers returning ballots to establish a community of interest. The statute and rule do not require an affirmative vote of at least 70 percent of all subscribers in the exchange.
10. This petition does not constitute a major rate proceeding as defined by P.U.C. PROC. R. 22.2.
11. The requirements of P.U.C. PROC. R. 22.35 have been met in this proceeding.

In accordance with the findings of fact and conclusions of law, the Commission issues the following Interim Order:

1. The petitioners in the petition filed by the Jarrell Exchange for expanded local calling service to the Belton and Temple Exchanges have shown a community of interest between the exchanges.
2. Within thirty (30) days of this Interim Order, GTE Southwest, Inc. (GTE) and Southwestern Bell Telephone Company (SWB) are directed to file a request for a waiver of the Modified Final Judgment with the Department of Justice or Judge Harold H. Greene, as appropriate.
3. Within thirty (30) days of the receipt of the ruling by Judge Greene, GTE and SWB are directed to file Judge Greene's judgment in this docket.

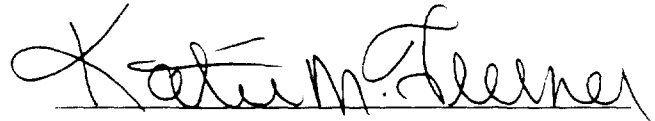
## Jarrell To Belton and Temple



This document was produced by the Texas Exchange Carrier Relations organization of Southwestern Bell Telephone Company on 8/4/97, based on the best information it could obtain from other sources at that time. In addition, it is the Telephone Company's understanding that the data underlying the creation of this document may be subject to change. Southwestern Bell makes no representation as to the accuracy of the information provided to it and used to create this document.

CERTIFICATE OF SERVICE

I, Katie M. Turner, hereby certify that the foregoing, "PETITION OF SOUTHWESTERN BELL TELEPHONE COMPANY" in Docket No. 96-159 has been filed this 29th day of August, 1997 to the Parties of Record.

A handwritten signature in cursive script, reading "Katie M. Turner", written over a horizontal line.

Katie M. Turner

August 29, 1997



Texas Public Utility Commission  
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